IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 14736 of 2004

Between:

Maj K. Madhav Rao S/o Sri K. Pullaiah, Administrative Officer,
1 Andhra EME, UNIT NCC, Plot No. 218, First Floor, Gunrock Enclave,
Secunderaad-9

..... PETITIONER

AND

1. The Station Commander, Station Head Quarters, Secunderabad Cantt. Secunderabad

2. Air Commodore James Sebastian, Deputy Director General, NCC, Malhotra Enclave, General Choudhary Road, Secunderabad.

3. Col MV Moogi, Director, NCC, Malthotra Enclave, General Choudhary Road, Secunderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ order or direction, declaring the action of the respondent authorities in convening court of enquiry bearing NO. 2999/NCC/KMR/C of I/A, dated 28-07-2004, without even furnishing articles of charge and TRP/C of 1/Pers/1001 dated 16-08-2004, wherein the 2nd respondent authority himself is the convening authority, against whom a charge is made, as illegal, void and no nest in the eye of law and opposed to principles of natural justice.

For the Petitioner: MR.NARESH BYRAPANENI, Advocate

For the Respondents: MR.KANTHI NARAHARI, Addl. S.C. for Central Govt.

The Court at the stage of admission, made the following:

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 14736 of 2004

ORDER:

The petitioner is an Administrative Officer in the N.C.C.Directorate (A.P.), Secunderabad. An enquiry was initiated against him by framing the Articles of charge on 18th of June, 2004 on certain allegations.

2. The grievance of the petitioner is that the 3rd respondent without furnishing the Articles of charge resorted to appoint the "Court of Enquiry". Thereby prejudice is caused to him. Therefore, he approached this Court through this writ petition, seeking a writ of mandamus by declaring that the 'Court of Enquiry' ordered by the 3rd respondent through the proceedings dated 28-07-2004 without furnishing the articles of charge as illegal and void in the eye of law.

3. Subsequent to the filing of the writ petition, the respondent was directed to furnish the articles of charge and accordingly the respondent furnished the articles of charge to the petitioner and obtained an acknowledgment on 28-08-2004. The further grievance of the petitioner is

that since the Court of enquiry was appointed by the 3rd respondent even before furnishing the copy of the charges, he is apprehending whether he will be afforded sufficient opportunity to defend himself in the matter.

4. The learned counsel for the petitioner submitted that when he pointed out certain irregularities through his letter dated 31-05-2004, the 1st respondent instead of probing into those irregularities resorted to order an enquiry against the petitioner.

5. The learned counsel for the respondents submitted that an enquiry regarding the irregularities pointed by the petitioner was held and it was concluded.

6. In the light of the above circumstances, the 3rd respondent is directed to see that the reasonable opportunity is given to the petitioner to defend himself in the enquiry.

7. With the above direction, writ petition is accordingly disposed of. No order as to costs.

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September 2,2004

KVR

To

1. The Station Commander, Station Head Quarters, Secunderabad Cantt. Secunderabad

2. Air Commodore James Sebastian, Deputy Director General, NCC, Malhotra Enclave, General Choudhary Road, Secunderabad-500 003.

3. Col MV Moogi, Director, NCC, Malthotra Enclave, General Choudhary Road, Secunderabad-500 003.

4. Two C.D.Copies.